IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.24 OF 2007

Sambha Maruti Ghadage ...Appellant
V/s.
Shri.Shivaji Sugar Mills Ltd. .
thru' Suresh A. Waskar & Anr. ...Respondents

Mr.Surel S. Shah, Advocate, for the Appellant.
Mr.P.S. Dani, Advocate, for Respondent No.2.

CORAM: B.H. MARLAPALLE, J.

Date : March 28, 2007.

P.C.:

. Heard Mr.Shah, the learned counsel for the appellant and Mr.Dani, learned counsel for Respondent No.2.

2. Regular Civil Suit No.356 of 1977 was filed by the present Respondent Nos.1 & 2 for recovery of rent and possession of the suit property as well as mesne profits. The suit property is agricultural land bearing Gat No.481 admeasuring 3H & 43R located in Village Degaon, Tal. Pandharpur, Dist. Solapur, whereas in Regular Civil Suit No.355 of 1977 the suit

property was agricultural land bearing Gat No.479 admeasuring 3H & 4R. Both the suits were decided by a common judgement/order dated 26.02.2003 after remand in Appeal proceedings i.e. S.A. No.443 of 1982 and S.A. No.444 of 1982. The suits were decreed in favour of the Plaintiffs. The present Defendant No.2 had therefore challenged this common decree in Civil Appeal No.66 of 2003 and the same has been dismissed by the learned Additional District Judge, Pandharpur on 14.07.2006.

3. Both the Courts below have concurrently held that the present appellant is not entitled for protection under the Bombay Tenancy and Agricultural Lands Act, 1948 by referring to the order passed by the Tenancy Court and confirmed in Tenancy Appeal Nos.4 of 1998 and 5 of 1998. It has been further held that the Plaintiff/Applicant is entitled for possession of the suit property. There was no dispute that the suit lands are the ancestral properties of the original Plaintiff No.2 and they were in possession of the original Plaintiff No.1 Shri.Shivaji Sugar Mills Ltd. The present appellant alongwith his

brother had claimed that he was a tenant on the suit property and therefore on reference made to the Lands Tribunal, the said issue has been conclusively decided against the defendants.

4. Under these circumstances, there is no substantial question of law that arises for consideration in this Second Appeal and hence the same must fail at the threshhold. The Appeal is hereby dismissed.

(B.H. Marlapalle,J.)